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EXAMINER

MUI, CHRISTINE T

ART UNIT

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1797

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments, see REMARKS/ARGUMENTS, filed 30 September 2008, with respect to the rejection(s) of claim(s) 1-6 under US Publication No. 2002/0170823 to Housefield et al. have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of US Publication No. 2002/0170823 in view of WO 00/05581 to Anderson et al.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein

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were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1 and 3-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Housefield in view of WO 00/05581 to Anderson et al (herein referred 'Anderson').

6. Regarding claims 1 and 5, the reference Housefield discloses a test apparatus that includes a base station that has a portable glucose meter attached to it that includes a slot for receiving and retaining test strips in the base and port for receiving a test strip on the tester. The base and the tester includes user input keys and a LCD display (see [0025-0029]). It is interpreted by the examiner that when the tester is docked in the base, this is considered to be the meter body and the upper receiving hole is the port for receiving the test strip on the meter and the lower receiving hole is the slot that is designed to receive and retain the test strip. Housefield does not disclose a single measurement unit and a single microcontroller.

7. Anderson discloses a device that is capable of utilizing a plurality of cartridges and reagent diagnostic test strips to determine the amounts of preselected parameters in a patient's blood. There is a single display unit and there are a plurality of adaptable modules that has a port for reagent test strips or cartridges in the form of modules. The device includes an analyzer for computing results made available on a touch screen LCD display. The results are stored by the device in a memory for later retrieval or can

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be sent via a communication port to an external or remote computer or laboratory. The device includes a base unit with a housing and a plurality of modules, which may either be adapted to receive test strips or cartridges (see abstract, page 7, lines 17-20, page 10, lines 1-page 24). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device of Housefield with a single display unit and microprocessor as seen in Anderson, so that when in use, there user does not get confused with which display to obtain blood parameters from.

Furthermore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Housefield with multiple testing ports that connect to a single measuring unit, so that a sample can be measured by the device in different orientations from the patient for convenience.

8. Regarding claims 3-4, neither Housefield nor Anderson specifically disclose an error message displayed when more than one connector is connected with the device. Anderson discloses a device capable of receiving a plurality of cartridges and diagnostic test strips in the form of modules. As seen from Figure 5, displayed is the system programmed central processing unit which all modules are connected to the central processing unit in one form or another (see Figure 5, page 13, lines 6-29). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the processing unit of Anderson, so that when more than module is connected to the device, an error message is displayed so that the user knows from which module the processing unit is measuring from and will not be confused as to where the measuring unit is testing from. Furthermore, it would have been obvious to

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one having ordinary skill in the art at the time the invention was made to only transmit a single signal to one module and an un-measurable signal to the other modules to eliminate any confusion as to where the device is reading from.

9. Regarding claim 6, neither Housefield nor Anderson neither discloses changing the display patten of the display unit is changed according to the orientation of the device. Anderson discloses a single display unit which is a touch screen interactive display and a device that is capable to receive a plurality of cartridges and diagnostic test strips (see abstract, page 10, lines 3-5, Figure 1). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the display unit of Anderson that changes as the orientation of the device changes as well as to what receiving hole it is reading from so that upon reading the parameter of the blood of interest one does not need to change one point of view for easier reading without mixing up numbers and letters.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTINE T. MUI whose telephone number is (571)270-3243. The examiner can normally be reached on Monday-Thursday 7-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Walter Griffin can be reached on (571) 272-1447. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CTM

/Jill Warden/
Supervisory Patent Examiner, Art Unit 1797